

APPENDIX A

**Selected Passages
from the Florida Statutes and
Administrative Codes**

Lower West Coast Water Supply Plan -- Appendix A

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SELECTED PASSAGES FROM SECTION 187.201, F.S.

187.201 State Comprehensive Plan Adopted

(8) WATER RESOURCES

(a) Goal. --Florida shall assure the availability of an adequate supply of water for all competing uses deemed reasonable and beneficial and shall maintain the functions of natural systems and the overall present level of surface and ground water quality. Florida shall improve and restore the quality of waters not presently meeting water quality standards.

(b) Policies. --

1. Ensure the safety and quality of drinking water supplies and promote the development of reverse osmosis and desalinization technologies for developing water supplies.
2. Identify and protect the functions of water recharge area and provide incentives for their conservation.
3. Encourage the development of local and regional water supplies within water management districts instead of transporting surface water across district boundaries.
4. Protect and use natural water systems in lieu of structural alternatives and restore modified systems.
5. Ensure that new development is compatible with existing local and regional water supplies.
6. Establish minimum seasonal flows and levels for surface watercourses with primary consideration given to the protection of natural resources, especially marine, estuarine, and aquatic ecosystems.
7. Discourage the channelization, diversion, or damming of natural riverine systems.
8. Encourage the development of a strict floodplain management program by state and local governments designed to preserve hydrologically significant wetlands and other natural floodplain features.
9. Protect aquifers from depletion and contamination through appropriate regulatory programs and through incentives.
10. Protect surface and groundwater quality and quantity in the state.
11. Promote water conservation as an integral part of water management programs as well as the use and reuse of water of the lowest acceptable quality for the purposes intended.
12. Eliminate the discharge of inadequately treated wastewater and stormwater runoff into the waters of the state.
13. Identify and develop alternative methods of wastewater treatment, disposal, and reuse of wastewater to reduce degradation of water resources.
14. Reserve from use that water necessary to support essential nonwithdrawal demands, including navigation, recreation, and the protection of fish and wildlife.

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SELECTED PASSAGES FROM SECTIONS 373.016 - 373.246, F.S.

373.016 Declaration of policy

(1) The waters in the state are among its basic resources. Such waters have not heretofore been conserved or fully controlled so as to realize their full beneficial use.

(2) It is further declared to be the policy of the Legislature:

(a) To provide for the management of water and related land resources;

(b) To promote the conservation, development, and proper utilization of surface and ground water;

(c) To develop and regulate dams, impoundments, reservoirs, and other works and to provide water storage for beneficial purposes;

(d) To prevent damage from floods, soil erosion, and excessive drainage;

(e) To minimize degradation of water resources caused by the discharge of stormwater;

(f) To preserve natural resources, fish, and wildlife;

(g) To promote the public policy set forth in s. 403.021;

(h) To promote recreational development, protect public lands, and assist in maintaining the navigability of rivers and harbors; and

(i) Otherwise to promote the health, safety, and general welfare of the people of this state.

(3) The Legislature recognizes that the water resource problems of the state vary from region to region, both in magnitude and complexity. It is therefore the intent of the Legislature to vest in the Department of Environmental Regulation or its successor agency the power and responsibility to accomplish the conservation, protection, management, and control of the waters of the state and with sufficient flexibility and discretion to accomplish these ends through delegation of appropriate powers to the various water management districts. The department may exercise any power herein authorized to be exercised by a water management district; however, to the greatest extent practicable, such power should be delegated to the governing board of a water management district.

History.--s. 2, part I, ch. 72-299; s. 36, ch. 79-65; s. 70, ch. 83-310, s. 5, ch. 89-279.

373.019 Definitions.--When appearing in this chapter or in any rule, regulation, or order adopted pursuant thereto, the following words shall, unless the context clearly indicates otherwise, mean:

(1) "Department" means the Department of Environmental Regulation or its successor agency or agencies.

(2) "Water management district" means any flood control, resource management, or water management district operating under the authority of this chapter.

(3) "Governing board" means the governing board of a water management district.

(4) "Reasonable-beneficial use" means the use of water in such quantity as is necessary for economic and efficient utilization for a purpose and in a manner which is both reasonable and consistent with the public interest.

(5) "Person" means any and all persons, natural or artificial, including any individual, firm, association, organization, partnership, business trust, corporation, company, the United States of America, and the state and all political subdivisions, regions, districts, municipalities, and public agencies thereof. The enumeration herein is not intended to be exclusive or exhaustive.

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(6) "Domestic use" means the use of water for the individual personal household purposes of drinking, bathing, cooking, or sanitation. All other uses shall not be considered domestic.

(7) "Nonregulated use" means any use of water which is exempted from regulation by the provisions of this chapter.

(8) "Water" or "waters in the state" means any and all water on or beneath the surface of the ground or in the atmosphere, including natural or artificial watercourses, lakes, ponds, or diffused surface water and water percolating, standing, or flowing beneath the surface of the ground, as well as all coastal waters within the jurisdiction of the state.

(9) "Ground water" means water beneath the surface of the ground, whether or not flowing through known and definite channels.

(10) "Surface water" means water upon the surface of the earth, whether contained in bounds created naturally or artificially or diffused. Water from natural springs shall be classified as surface water when it exits from the spring onto the earth's surface.

(11) "Stream" means any river, creek, slough, or natural watercourse in which water usually flows in a defined bed or channel. It is not essential that the flowing be uniform or uninterrupted. The fact that some part of the bed or channel has been dredged or improved does not prevent the watercourse from being a stream.

(12) "Other watercourse" means any canal, ditch, or other artificial watercourse in which water usually flows in a defined bed or channel. It is not essential that the flowing be uniform or uninterrupted.

(13) "Coastal waters" means waters of the Atlantic Ocean or the Gulf of Mexico within the jurisdiction of the state.

(14) "Impoundment" means any lake, reservoir, pond, or other containment of surface water occupying a bed or depression in the earth's surface and having a discernible shoreline.

(15) "Works of the district" means those projects and works, including, but not limited to, structures, impoundments, wells, streams, and other watercourses, together with the appurtenant facilities and accompanying lands, which have been officially adopted by the governing board of the district as works of the district.

(16) "State water policy" means the comprehensive statewide policy as adopted by the department pursuant to ss. 373.026 and 403.061 setting forth goals, objectives, and guidance for the development and review of programs, rules, and plans relating to water resources.

History.--s. 3, part I, ch. 72-299; s. 37, ch. 79-65; s. 1, ch. 80-259; s. 5, ch. 82-101; s. 6, ch. 89-279.

373.033 Saltwater barrier line.--

(1) The department may, at the request of the board of county commissioners of any county, at the request of the governing board of any water management district, or any municipality or water district responsible for the protection of a public water supply, or, having determined by adoption of an appropriate resolution that saltwater intrusion has become a matter of emergency proportions, by its own initiative, establish generally along the seacoast, inland from the seashore and within the limits of the area within which the petitioning board has jurisdiction, a saltwater barrier line inland of which no canal shall be constructed or enlarged, and no natural stream shall be deepened or enlarged, which shall discharge into tidal waters without a dam, control structure or spillway at or seaward of the saltwater barrier line, which shall prevent the movement of salt water inland of the saltwater barrier line.

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Provided, however, that the department is authorized, in cases where saltwater intrusion is not a problem, to waive the requirement of a barrier structure by specific permit to construct a canal crossing the saltwater barrier line without a protective device and provided, further that the agency petitioning for the establishment of the saltwater barrier line shall concur in the waiver.

(2) Application by a board of county commissioners or by the governing board of a water management district, a municipality or a water district for the establishment of a saltwater barrier line shall be made by adoption of an appropriate resolution, agreeing to:

(a) Reimburse the department the cost of necessary investigation, including, but not limited to, subsurface exploration by drilling, to determine the proper location of the saltwater barrier line in that county or in all or part of the district over which the applying agency has jurisdiction.

(b) Require compliance with the provisions of this law by county or district forces under their control; by those individuals or corporations filing plats for record and by individuals, corporations or agencies seeking authority to discharge surface or subsurface drainage into tidal waters.

(3) The board of county commissioners of any county or the governing board of any water management district, municipality or water district desiring to establish a saltwater barrier line is authorized to reimburse the department for any expense entailed in making an investigation to determine the proper location of the saltwater barrier line, from any funds available to them for general administrative purposes.

(4) The department, any board of county commissioners, and the governing board of any water management district, municipality, or water district having competent jurisdiction over an area in which a saltwater barrier is established shall be charged with the enforcement of the provisions of this section, and authority for the maintenance of actions set forth in s. 373.129 shall apply to this section.

(5) The provisions of s. 373.191 shall apply specifically to the authority of the board of county commissioners, or to the governing board of a water management district, a municipality, or a water district having jurisdiction over an area in which a saltwater barrier line is established, to expend funds from whatever source may be available to them for the purpose of constructing saltwater barrier dams, dikes, and spillways within existing canals and streams in conformity with the purpose and intent of the board in establishing the saltwater barrier line.

History.--s. 2, ch. 63-210; ss. 25, 35, ch. 69-106; s. 25, ch. 73-190; s. 14, ch. 78-95; s. 40, ch. 79-65; s. 85, ch. 79-164.

Note.--Former s. 373.194.

373.036 State water use plan.--

(1) The department shall proceed as rapidly as possible to study existing water resources in the state; means and methods of conserving and augmenting such waters; existing and contemplated needs and uses of water for protection and procreation of fish and wildlife, irrigation, mining, power development, and domestic, municipal, and industrial uses; and all other related subjects, including drainage, reclamation, flood plain or flood-hazard area zoning, and selection of reservoir sites. The department shall cooperate with the Executive Office of the Governor, or its successor agency, progressively to formulate, as a functional element of a comprehensive state plan, an integrated, coordinated plan for the use and development of the waters of the state, based on the above studies. This plan, with such amendments, supplements, and additions as may be necessary from time to time, shall be known as the state water use plan.

(2) In the formulation of the state water use plan, the department shall give due consideration to:

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- (a) The attainment of maximum reasonable-beneficial use of water for such purposes as those referred to in subsection (1).
- (b) The maximum economic development of the water resources consistent with other uses.
- (c) The control of such waters for such purposes as environmental protection, drainage, flood control, and water storage.
- (d) The quantity of water available for application to a reasonable-beneficial use.
- (e) The prevention of wasteful, uneconomical, impractical, or unreasonable uses of water resources.
- (f) Presently exercised domestic use and permit rights.
- (g) The preservation and enhancement of the water quality of the state and the provisions of the state water quality plan.
- (h) The state water resources policy as expressed by this chapter.
- (3) During the process of formulating or revising the state water use plan, the department shall consult with, and carefully evaluate the recommendations of, concerned federal, state, and local agencies, particularly the governing boards of the water management districts, and other interested persons.
- (4) Each governing board is directed to cooperate with the department in conducting surveys and investigations of water resources, to furnish the department with all available data of a technical nature, and to advise and assist the department in the formulation and drafting of those portions of the state plan applicable to the district.
- (5) The department shall not adopt or modify the state water use plan or any portion thereof without first holding a public hearing on the matter. At least 90 days in advance of such hearing, the department shall notify any affected governing boards, and shall give notice of such hearing by publication within the affected region pursuant to the provisions of chapter 120, except such notice by publication shall be extended at least 90 days in advance of such hearings.
- (6) For the purposes of this plan the department may, in consultation with the affected governing board, divide each water management district into sections which shall conform as nearly as practicable to hydrologically controllable areas and describe all water resources within each area.
- (7) The department shall give careful consideration to the requirements of public recreation and to the protection and procreation of fish and wildlife. The department may prohibit or restrict other future uses on certain designated bodies of water which may be inconsistent with these objectives.
- (8) The department may designate certain uses in connection with a particular source of supply which, because of the nature of the activity or the amount of water required, would constitute an undesirable use for which the governing board may deny a permit.
- (9) The department may designate certain uses in connection with a particular source of supply which, because of the nature of the activity or the amount of water required, would result in an enhancement or improvement of the water resources of the area. Such uses shall be preferred over other uses in the event of competing applications under the permitting systems authorized by this chapter.
- (10) The department, in cooperation with the Executive Office of the Governor, or its successor agency, may add to the state water use plan any other information, directions, or objectives it deems necessary or desirable for the guidance of the governing boards or other agencies in the administration and enforcement of this chapter.

History.--s. 6, part I, ch. 72-299; ss. 2, 3, ch. 73-190; s. 122, ch. 79-190.

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373.0391 Technical assistance to local governments.--

(1) The water management districts shall assist local governments in the development and future revision of local government comprehensive plan elements or public facilities report as required by s. 189.415, related to water resource issues.

(2) By July 1, 1991, each water management district shall prepare and provide information and data to assist local governments in the preparation and implementation of their local government comprehensive plans or public facilities report as required by s. 189.415, whichever is applicable. Such information and data shall include, but not be limited to:

(a) All information and data required in a public facilities report pursuant to s. 189.415.

(b) A description of regulations, programs, and schedules implemented by the district.

(c) Identification of regulations, programs, and schedules undertaken or proposed by the district to further the State Comprehensive Plan.

(d) A description of surface water basins, including regulatory jurisdictions, flood-prone areas, existing and projected water quality in water management district operated facilities, as well as surface water runoff characteristics and topography regarding flood plains, wetlands, and recharge areas.

(e) A description of groundwater characteristics, including existing and planned wellfield sites, existing and anticipated cones of influence, highly productive groundwater areas, aquifer recharge areas, deep well injections zones, contaminated areas, an assessment of regional water resource needs and sources for the next 20 years, and water quality.

(f) The identification of existing and potential water management district land acquisitions.

(g) Information reflecting the minimum flows for surface watercourses to avoid harm to water resources or the ecosystem and information reflecting the minimum water levels for aquifers to avoid harm to water resources or the ecosystem.

History.-- s. 55, ch. 89-169; s. 8, ch. 89-279.

373.0395 Ground water basin resource availability inventory.--Each water management district shall develop a ground water basin resource availability inventory covering those areas deemed appropriate by the governing board. This inventory shall include, but not be limited to, the following:

(1) A hydrogeologic study to define the ground water basin and its associated recharge areas.

(2) Site specific areas in the basin deemed prone to contamination or overdraft resulting from current or projected development.

(3) Prime ground water recharge areas.

(4) Criteria to establish minimum seasonal surface and ground water levels.

(5) Areas suitable for future water resource development within the ground water basin.

(6) Existing sources of wastewater discharge suitable for reuse as well as the feasibility of integrating coastal wellfields.

(7) Potential quantities of water available for consumptive uses.

Upon completion, a copy of the ground water basin availability inventory shall be submitted to each affected municipality, county, and regional planning agency. This inventory shall be reviewed by the affected municipalities, counties, and regional planning agencies for consistency with the local government comprehensive plan and shall be considered in future revisions of such plan. It is the intent of the Legislature

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that future growth and development planning reflect the limitations of the available ground water or other available water supplies.

History.--s. 6, ch. 82-101.

373.0397 Floridan and Biscayne aquifers; designation of prime ground water recharge areas.--Upon preparation of an inventory of prime ground water recharge areas for the Floridan or Biscayne aquifers as a part of the requirements of s. 373.0395(3), but prior to adoption by the governing board, the water management district shall publish a legal notice of public hearing on the designated areas for the Floridan and Biscayne aquifers, with a map delineating the boundaries of the areas, in newspapers defined in chapter 50 as having general circulation within the area to be affected. The notice shall be at least one-fourth page and shall read as follows:

NOTICE OF PRIME RECHARGE AREA DESIGNATION

The (name of taxing authority) proposes to designate specific land areas as areas of prime recharge to the (name of aquifer) Aquifer.

All concerned citizens are invited to attend a public hearing on the proposed designation to be held on (date and time) at (meeting place).

A map of the affected areas follows.

The governing board of the water management district shall adopt a designation of prime ground water recharge areas to the Floridan and Biscayne aquifers by rule within 120 days after the public hearing, subject to the provisions of chapter 120.

History.--s. 2, ch. 85-42.

373.042 Minimum flows and levels.--Within each section, or the water management district as a whole, the department or the governing board shall establish the following:

(1) Minimum flow for all surface watercourses in the area. The minimum flow for a given watercourse shall be the limit at which further withdrawals would be significantly harmful to the water resources or ecology of the area.

(2) Minimum water level. The minimum water level shall be the level of ground water in an aquifer and the level of surface water at which further withdrawals would be significantly harmful to the water resources of the area.

The minimum flow and minimum water level shall be calculated by the department and the governing board using the best information available. When appropriate, minimum flows and levels may be calculated to reflect seasonal variations. The department and the governing board shall also consider, and at their discretion may provide for, the protection of nonconsumptive uses in the establishment of minimum flows and levels.

History.--s. 6, part I, ch. 72-299; s. 2, ch. 73-190.

Note.--Former s. 373.036(7).

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373.087 District works using aquifer for storage and supply.--The governing board may establish works of the district for the purpose of introducing water into, or drawing water from, the underlying aquifer for storage or supply. However, only water of a compatible quality shall be introduced directly into such aquifer.

History. --s. 1, ch. 72-318; s. 1, ch. 82-46; s. 25, ch. 88-242; ss. 1, 2, ch. 89-279.

Note.--Repealed effective October 1, 1990, by s. 2, ch. 89-279, and scheduled for review pursuant to s. 11.611.

[The repeal of this section by s. 2, ch. 89-279, was nullified by s. 11, ch. 90-217.]

373.171 Rules and regulations.--

(1) In order to obtain the most beneficial use of the water resources of the state and to protect the public health, safety, and welfare and the interests of the water users affected, governing boards, by action not inconsistent with the other provisions of this law and without impairing property rights, may:

(a) Establish rules, regulations, or orders affecting the use of water, as conditions warrant, and forbidding the construction of new diversion facilities or wells, the initiation of new water uses, or the modification of any existing uses, diversion facilities, or storage facilities within the affected area.

(b) Regulate the use of water within the affected area by apportioning, limiting, or rotating uses of water or by preventing those uses which the governing board finds have ceased to be reasonable or beneficial.

(c) Make other rules, regulations, and orders necessary for the preservation of the interests of the public and of affected water users.

(2) In promulgating rules and regulations and issuing orders under this law, the governing board shall act with a view to full protection of the existing rights to water in this state insofar as is consistent with the purpose of this law.

(3) No rule, regulation or order shall require any modification of existing use or disposition of water in the district unless it is shown that the use or disposition proposed to be modified is detrimental to other water users or to the water resources of the state.

(4) All rules and regulations adopted by the governing board shall be filed with the Department of State as provided in chapter 120. An information copy will be filed with the Department of Environmental Regulation.

History.--s. 11, ch. 57-380; s. 8, ch. 63-336; ss. 10, 25, 35, ch. 69-106; s. 8, ch. 76-243; s. 1, ch. 77-117; s. 14, ch. 78-95.

373.185 Local xeriscape ordinances.--

(1) As used in this section, the term:

(a) "Local government" means any county or municipality of the state.

(b) "xeriscape" means a landscaping method that maximizes the conservation of water by the use of site-appropriate plants and an efficient watering system. The principles of Xeriscape include planning and design, appropriate choice of plants, soil analysis which may include the use of solid waste compost, efficient irrigation, practical use of turf, appropriate use of mulches, and proper maintenance.

(2) Each water management district shall design, and implement and incentive program to encourage all local governments within its district to adopt new ordinances or amend existing ordinances to require Xeriscape landscaping for development permitted after the effective date of the new ordinance or amendment. Each district shall adopt rules governing the implementation of its incentive program and governing the review and approval of local government Xeriscape ordinances or amendments which are intended to qualify a local government for the incentive program. Each district shall assist the local governments within its jurisdiction by providing a model Xeriscape code and other technical assistance. A

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local government Xeriscape ordinance or amendment, in order to qualify the local government for the district's incentive program, must include, at a minimum:

(a) Landscape design, installation, and maintenance standards that result in water conservation. Such standards shall address the use of plant groupings, soil analysis including promotion of the use of solid waste compost, efficient irrigation systems and other water-conserving practices.

(b) Identification of prohibited invasive exotic plant species.

(b) Identification of controlled plant species, accompanies by the conditions under which such plants may be used.

(d) A provision specifying the maximum percentage of turf and the maximum percentage of impervious surfaces allowed in a xeriscaped area and addressing the practical selection and installation of turf.

(e) Specific standards for land clearing and requirements for the preservation of existing native vegetation.

(f) A monitoring program for ordinance implementation and compliance.

The districts also shall work with local governments to promote, through educational programs and publications, the use of Xeriscape practices, including the use of solid waste compost, in existing residential and commercial development. This section may not be construed to limit the authority of the districts to require Xeriscape ordinances or practices as a condition of any consumptive use permit.

History.--s. 3, ch. 91-41; s. 3, ch. 91-68.

373.191 County water conservation projects.--The several counties of the state may cooperate with the division by engaging in county water development and conservation projects and may use county funds and equipment for this purpose and to do all other things necessary in connection with the development and conservation of the county's water resources consistent with the provisions of this law and the rules and regulations adopted pursuant thereto.

History.--s. 13, ch. 57-380; ss. 25, 35, ch. 69-106.

373.196 Legislative findings.--

(1) It is the finding of the Legislature that cooperative efforts between municipalities, counties, water management districts, and the Department of Environmental Regulation are mandatory in order to meet the water needs of rapidly urbanizing areas in a manner which will supply adequate and dependable supplies of water where needed without resulting in adverse effects upon the areas from whence such water is withdrawn. Such efforts should utilize all practical means of obtaining water, including, but not limited to, withdrawals of surface water and ground water, recycling of waste water, and desalinization, and will necessitate not only cooperation but also well-coordinated activities. The purpose of this act is to provide additional statutory authority for such cooperative and coordinated efforts.

(2) Municipalities and counties are encouraged to create regional water supply authorities as authorized herein. It is further the intent that municipalities, counties, and regional water supply authorities are to have the primary responsibility for water supply, and water management districts and their basin boards are to engage only in those functions that are incidental to the exercise of their flood control and water management powers.

(3) Nothing herein shall be construed to preclude the various municipalities and counties from continuing to operate existing water production and transmission facilities or to enter into cooperative agreements with other municipalities and counties for the purpose of meeting their respective needs for dependable and

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adequate supplies of water, provided the obtaining of water through such operations shall not be done in a manner which results in adverse effects upon the areas from whence such water is withdrawn.

History.--s. 1, ch. 74-114; s. 43, ch. 79-65.

373.1961 Water production.--In the performance of, and in conjunction with, its other powers and duties, the governing board of a water management district existing pursuant to chapter 373:

(1) Shall engage in planning to assist counties, municipalities, and regional water supply authorities in meeting the water supply needs in such manner as will give priority to encouraging conservation and reducing adverse environmental effects of improper or excessive withdrawals of water from concentrated areas. As used in this section, regional water supply authorities are regional water authorities created under s. 373.1962 or other laws of this state.

(2) Shall assist counties, municipalities, and water supply authorities in meeting water supply needs in such manner as will give priority to encouraging conservation and reducing adverse environmental effects of improper or excessive withdrawals of water from concentrated areas.

(3) May establish, design, construct, operate, and maintain water production and transmission facilities for the purpose of supplying water to counties, municipalities, and regional water supply authorities. The permit required by part II of this chapter for a water management district engaged in water production and transmission shall be granted, denied, or granted with conditions by the department.

(4) Shall not engage in local distribution.

(5) Shall not deprive, directly or indirectly, any county wherein water is withdrawn of the prior right to the reasonable and beneficial use of water which is required to supply adequately the reasonable and beneficial needs of the county or any of the inhabitants or property owners therein.

(6) May provide water and financial assistance to regional water supply authorities, but may not provide water to counties and municipalities which are located within the area of such authority without the specific approval of the authority or, in the event of the authority's disapproval, the approval of the Governor and Cabinet sitting as the Land and Water Adjudicatory Commission. The district may supply water at rates and upon terms mutually agreed to by the parties or, if they do not agree, as set by the governing board and specifically approved by the Governor and Cabinet sitting as the Land and Water Adjudicatory Commission.

(7) May acquire title to such interest as is necessary in real property, by purchase, gift, devise, lease, eminent domain, or otherwise, for water production and transmission consistent with this section. However, the district shall not use any of the eminent domain powers herein granted to acquire water and water rights already devoted to reasonable and beneficial use or any water production or transmission facilities owned by any county, municipality, or regional water supply authority. The district may exercise eminent domain powers outside of its district boundaries for the acquisition of pumpage facilities, storage areas, transmission facilities, and the normal appurtenances thereto, provided that at least 45 days prior to the exercise of eminent domain, the district notifies the district where the property is located after public notice and the district where the property is located does not object within 45 days after notification of such exercise of eminent domain authority.

(8) In addition to the power to issue revenue bonds pursuant to s. 373.584, may issue revenue bonds for the purposes of paying the costs and expenses incurred in carrying out the purposes of this chapter or refunding obligations of the district issued pursuant to this section. Such revenue bonds shall be secured by, and be payable from, revenues derived from the operation, lease, or use of its water

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production and transmission facilities and other water-related facilities and from the sale of water or services relating thereto. Such revenue bonds may not be secured by, or be payable from, moneys derived by the district from the Water Management Lands Trust Fund or from ad valorem taxes received by the district. All provisions of s. 373.584 relating to the issuance of revenue bonds which are not inconsistent with this section shall apply to the issuance of revenue bonds pursuant to this section. The district may also issue bond anticipation notes in accordance with the provisions of s. 373.584.

(9) May join with one or more other water management district, counties, municipalities, or regional water supply authorities for the purpose of carrying out any of its powers, and may contract with such other entities to finance acquisitions, construction, operation, and maintenance. The contract may provide for contributions to be made by each party thereto, for the division and apportionment of the expenses of acquisitions, construction, operation, and maintenance, and for the diversion and apportionment of the benefits, services, and products therefrom. The contracts may contain other covenants and agreements necessary and appropriate to accomplish their purposes.

History.--s. 2, ch. 74-114; s. 14, ch. 76-243; s. 7, ch. 82-101; s. 2, ch. 87-347.

373.1962 Regional water supply authorities.--

(1) By agreement between local governmental units created or existing pursuant to the provisions of Art. VIII of the State Constitution, pursuant to the Florida Interlocal Cooperation Act of 1969, s. 163.01, and upon the approval of the Governor and Cabinet sitting as head of the Department of Natural Resources to ensure that such agreement will be in the public interest and complies with the intent and purposes of this act, regional water supply authorities may be created for the purpose of developing, recovering, storing, and supplying water for county or municipal purposes in such a manner as will give priority to reducing adverse environmental effects of excessive or improper withdrawals of water from concentrated areas. In approving said agreement the Governor and Cabinet, sitting as head of the Department of Natural Resources, shall consider, but not be limited to, the following:

(a) Whether the geographic territory of the proposed authority is of sufficient size and character to reduce the environmental effects of improper or excessive withdrawals of water from concentrated areas.

(b) The maximization of economic development of the water resources within the territory of the proposed authority.

(c) The availability of a dependable and adequate water supply.

(d) The ability of any proposed authority to design, construct, operate, and maintain water supply facilities in the locations, and at the times necessary, to ensure that an adequate water supply will be available to all citizens within the authority.

(e) The effect or impact of any proposed authority on any municipality, county, or existing authority or authorities.

(f) The existing needs of the water users within the area of the authority.

(2) In addition to other powers and duties agreed upon, and notwithstanding the provisions of s. 163.01, such authority may:

(a) Upon approval of the electors residing in each county or municipality within the territory to be included in any authority, levy ad valorem taxes, not to exceed one-half mill, pursuant to s. 9(b), Art. VII of the State Constitution. No tax authorized by this paragraph shall be levied in any county or municipality without an affirmative vote of the electors residing in such county or municipality.

(b) Acquire water and water rights; develop, store, and transport water; provide, sell and deliver water for county or municipal uses and purposes; provide for the

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furnishing of such water and water service upon terms and conditions and at rates which will apportion to parties and nonparties an equitable share of the capital cost and operating expense of the authority's work to the purchaser.

(c) Collect, treat, and recover wastewater.

(d) Not engage in local distribution.

(e) Exercise the power of eminent domain in the manner provided by law for the condemnation of private property for public use to acquire title to such interest in real property as is necessary to the exercise of the powers herein granted, except water and water rights already devoted to reasonable and beneficial use or any water production or transmission facilities owned by any county or municipality.

(f) Issue revenue bonds in the manner prescribed by the Revenue Bond Act of 1953, as amended, part I, chapter 159, to be payable solely from funds derived from the sale of water by the authority to any county or municipality. Such bonds may be additionally secured by the full faith and credit of any county or municipality, as provided by s. 159.16 or by a pledge of excise taxes, as provided by s. 159.19. For the purpose of issuing revenue bonds, an authority shall be considered a "unit" as defined in s. 159.02(2) and as that term is used in the Revenue Bond Act of 1953, as amended. Such bonds may be issued to finance the cost of acquiring properties and facilities for the production and transmission of water by the authority to any county or municipality, which cost shall include the acquisition of real property and easements therein for such purposes. Such bonds may be in the form of refunding bonds to take up any outstanding bonds of the authority or of any county or municipality where such outstanding bonds are secured by properties and facilities for production and transmission of water, which properties and facilities are being acquired by the authority. Refunding bonds may be issued to take up and refund all outstanding bonds of said authority that are subject to call and termination, and all bonds of said authority that are not subject to call or redemption, when the surrender of said bonds can be procured from the holder thereof at prices satisfactory to the authority. Such refunding bonds may be issued at any time when, in the judgment of the authority, it will be to the best interest of the authority financially or economically by securing a lower rate of interest on said bonds or by extending the time of maturity of said bonds or, for any other reason, in the judgment of the authority, advantageous to said authority.

(g) Sue and be sued in its own name.

(h) Borrow money and incur indebtedness and issue bonds or other evidence of such indebtedness.

(i) Join with one or more other public corporations for the purpose of carrying out any of its powers and for that purpose to contract with such other public corporation or corporations for the purpose of financing such acquisitions, construction, and operations. Such contracts may provide for contributions to be made by each party thereto, for the division and apportionment of the expenses of such acquisitions and operations, and for the division and apportionment of the benefits, services, and products therefrom. Such contract may contain such other and further covenants and agreements as may be necessary and convenient to accomplish the purposes hereof.

(3) When it is found to be in the public interest, for the public convenience and welfare, for a public benefit, and necessary for carrying out the purpose of any regional water supply authority, any state agency, county, water control district existing pursuant to chapter 298, water management district existing pursuant to chapter 373, municipality, governmental agency, or public corporation in this state holding title to any interest in land is hereby authorized, in its discretion, to convey the title to or dedicate land, title to which is in such entity, including tax reverted land, or to grant use-rights therein, to any regional water supply authority created pursuant to this section. Land granted or conveyed to such authority shall be for the public purposes of such authority and may be made subject to the condition that in

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the event said land is not so used, or if used and subsequently its use for said purpose is abandoned, the interest granted shall cease as to such authority and shall automatically revert to the granting entity.

(4) Each county or municipality which is a party to an agreement pursuant to subsection (1) shall have a preferential right to purchase water from the regional water supply authority for use by such county or municipality.

(5) In carrying out the provisions of this section, any county wherein water is withdrawn by the authority shall not be deprived, directly or indirectly, of the prior right to the reasonable and beneficial use of water which is required adequately to supply the reasonable and beneficial needs of the county or any of the inhabitants or property owners therein.

(6) Upon a resolution adopted by the governing body of any county or municipality, the authority may, subject to a majority vote of its voting members, include such county or municipality in its regional water supply authority upon such terms and conditions as may be prescribed.

(7) The authority shall design, construct, operate, and maintain facilities in the locations and at the times necessary to insure that an adequate water supply will be available to all citizens within the authority.

History.--s. 7, ch. 74-114; s. 1, ch. 77-174; s. 35, ch. 79-5; s. 1, ch. 86-22.

Note.--Section 11, ch. 75-22 transferred powers, duties, and functions of the Department of Natural Resources relating to water management to the Department of Environmental Regulation.

373.207 Abandoned artesian wells.--

(1) Each water management district shall develop a work plan which identifies the location of all known abandoned artesian wells within its jurisdictional boundaries and defined the actions which the district must take in order to ensure that each such well is plugged on or before January 1, 1992. The work plan shall include the following:

(a) An initial inventory which accounts for all known abandoned artesian wells in the district.

(b) The location and owner of each known abandoned well.

(c) The methodology proposed by the district to accomplish the plugging of all abandoned wells within the district on or before January 1, 1992.

(d) Data relating to the costs to be incurred for the plugging of all wells, including the per-well cost and personnel costs.

(e) A schedule of priority for the plugging of wells, which schedule is established to mitigate damage to the ground water resource due to water quality degradation.

(2) Each water management district shall submit its work plan to the Secretary of Environmental Regulation no later than January 1, 1984. Thereafter, each water management district shall submit an annual update of its work plan until January 1, 1992, or until all wells identified by the plan are plugged, whichever is later.

History.--s. 8, ch. 83-310.

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373.219 Permits required.--

(1) The governing board or the department may require such permits for consumptive use of water and may impose such reasonable conditions as are necessary to assure that such use is consistent with the overall objectives of the district or department and is not harmful to the water resources of the area. However, no permit shall be required for domestic consumption of water by individual users.

(2) In the event that any person shall file a complaint with the governing board or the department that any other person is making a diversion, withdrawal, impoundment, or consumptive use of water not expressly exempted under the provisions of this chapter and without a permit to do so, the governing board or the department shall cause an investigation to be made, and if the facts stated in the complaint are verified the governing board or the department shall order the discontinuance of the use.

History.--s. 2, part II, ch. 72-299; s. 9, ch. 73-190.

373.223 Conditions for a permit.--

(1) To obtain a permit pursuant to the provisions of this chapter, the applicant must establish that the proposed use of water:

- (a) Is a reasonable-beneficial use as defined in s. 373.019(4);
- (b) Will not interfere with any presently existing legal use of water; and
- (c) Is consistent with the public interest.

(2) The governing board or the department may authorize the holder of a use permit to transport and use ground or surface water beyond overlying land, across county boundaries, or outside the watershed from which it is taken if the governing board or department determines that such transport and use is consistent with the public interest, and no local government shall adopt or enforce any law, ordinance, rule, regulation, or order to the contrary.

(3) The governing board or the department, by regulation, may reserve from use by permit applicants, water in such locations and quantities, and for such seasons of the year, as in its judgment may be required for the protection of fish and wildlife or the public health and safety. Such reservations shall be subject to periodic review and revision in the light of changed conditions. However, all presently existing legal uses of water shall be protected so long as such use is not contrary to the public interest.

History.--s. 3, part II, ch. 72-299; s. 10, ch. 73-190, s. 10, ch. 76-243; s. 35, ch. 85-81.

373.224 Existing permits.--Any permits or permit agreements for consumptive use of water executed or issued by an existing flood control, water management, or water regulatory district pursuant to chapter 373 or chapter 378 prior to December 31, 1976, shall remain in full force and effect in accordance with its terms until otherwise modified or revoked as authorized herein.

History.--s. 11, ch. 73-190; s. 3, ch. 75-125.

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373.226 Existing uses.--

(1) All existing uses of water, unless otherwise exempted from regulation by the provisions of this chapter, may be continued after adoption of this permit system only with a permit issued as provided herein.

(2) The governing board or the department shall issue an initial permit for the continuation of all uses in existence before the effective date of implementation of this part if the existing use is a reasonable beneficial use as defined in ¹s. 373.019(5) and is allowable under the common law of this state.

(3) Application for permit under the provisions of subsection (2) must be made within a period of 2 years from the effective date of implementation of these regulations in an area. Failure to apply within this period shall create a conclusive presumption of abandonment of the use, and the user, if he desires to revive the use, must apply for a permit under the provisions of s. 373.229.

History.--s. 4, part II, ch. 72-299; s. 12, ch. 73-190.

¹**Note.**--The reference to "s. 373.019(4)" was substituted by the editors for a reference to "s. 373.019(5)" to conform to the renumbering by s. 37, ch. 79-65.

373.2295 Interdistrict transfers of groundwater.--

(1) As used in this section, "interdistrict transfer and use" means a consumptive water use which involves the withdrawal of groundwater from a point within one water management district for use outside the boundaries of that district.

(2) To obtain a permit for an interdistrict transfer and use of groundwater, an applicant must file an application in accordance with s. 373.229 with the water management district having jurisdiction over the area from which the applicant proposes to withdraw groundwater and submit a copy of the application to the water management district having jurisdiction over the area where the water is to be used.

(3) The governing board of the water management district where the groundwater is proposed to be withdrawn shall review the application in accordance with this part, the rules of the district which relate to consumptive water use permitting, and other applicable provisions of this chapter.

(4) In determining if an application is consistent with the public interest as required by s. 373.223, the projected populations, as contained in the future land use elements of the comprehensive plans adopted pursuant to chapter 163 by the local governments within which the withdrawal areas and the proposed use areas are located, will be considered together with other evidence presented on future needs of those areas. If the proposed interdistrict transfer of groundwater meets the requirements of this chapter, and if the needs of the area where the use will occur and the specific area from which the groundwater will be withdrawn can be satisfied, the permit for the interdistrict transfer and use shall be issued.

(5) In addition to other requirements contained in this part, the water management district where the groundwater is proposed to be withdrawn shall:

(a) Furnish copies of any application, information, correspondence, or other related material to the water management district having jurisdiction over the area where the water is to be used; and

(b) Request comments on the application and the future water needs of the proposed use area from the water management district having jurisdiction over the area where the water is to be used. If comments are received, they must be attached to the preliminary notice of intended agency action and may not create a point of entry for review whether issued by the governing board or district staff.

(6) Upon completion of review of the application, the water management district where the groundwater is proposed to be withdrawn shall prepare a notice of preliminary intended agency action which shall include an evaluation of the application and a recommendation of approval, denial, or approval with conditions.

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The notice shall be furnished to the district where the water is to be used, the applicant, the Department of Environmental Regulation, the local governments having jurisdiction over the area from which the groundwater is to be withdrawn and where the water is to be used, and any person requesting a copy of the notice.

(a) Any interested person may, within the time specified in the notice, notify in writing the district from where the groundwater is to be withdrawn of such person's position and comments or objections, if any, to the preliminary intended action.

(b) The filing of the notice of intended agency action shall toll the time periods contained in s. 120.60 for the granting or denial of a permit for an interdistrict transfer and use of groundwater.

(c) The preliminary intended agency action and any comments or objections of interested persons made pursuant to paragraph (a) shall be considered by the governing board of the water management district where the groundwater is proposed to be withdrawn. Following such consideration, the governing board shall issue a notice of intended agency action.

(d) Any substantially affected person who submitted a notification pursuant to paragraph (a) may request review by the department within 14 days after the filing of the notice of intended agency action. If no request for review is filed, the notice of intended agency action shall become the final order of the governing board.

(7) Notwithstanding the provisions of chapter 120, the department shall, within 30 days after its receipt of a request for review of the water management district's action, approve, deny, or modify the water management district's action on the proposed interdistrict transfer and use of groundwater. The department shall issue a notice of its intended action. Any substantially affected person who requested review pursuant to paragraph (6)(a) may request an administrative hearing pursuant to chapter 120 within 14 days after notice of the department's intended action. The parties to such proceeding shall include, at a minimum, the affected water management districts and the applicant. The proceedings initiated by a petition under s. 120.57, following the department's issuance of a notice of intended agency action, is the exclusive proceeding authorized for the review of agency action on the interdistrict transfer and use of groundwater. This procedure is to give effect to the legislative intent that this section provide a single, efficient, simplified, coordinated permitting process for the interdistrict transfer and use of groundwater.

(8) The department shall issue a final order which is subject to review pursuant to s. 373.114 or s. 120.68.

(9) In administering this part, the department or the water management districts may enter into interagency agreements. However, such agreements are not subject to the provisions of s. 373.046 and chapter 120.

(10) The state hereby preempts any regulation of the interdistrict transfer and use of groundwater. If any provision of this section is in conflict with any other provision or restriction under any law, administrative rule, or ordinance, this section shall govern and such law, rule, or ordinance shall be deemed superseded for the purposes of this section. A water management district or the department may not adopt special rules which prohibit or restrict interdistrict transfer and use of groundwater in a manner inconsistent with this section.

(11) Any applicant who has submitted an application for interdistrict transfer and use of groundwater which is pending on July 11, 1987, may have the application considered pursuant to this section. New permits are not required for interdistrict transfers existing on July 11, 1987, for the duration of the permits issued for such uses.

(12) If, after the final order of the department or final agency action under this section, the proposed use of the site designated in the application for groundwater production, treatment, or transmission facilities does not conform with the existing zoning ordinances, a rezoning application may be submitted. If local authorities deny

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the application for rezoning, the applicant may appeal this decision to the Land and Water Adjudicatory Commission, which shall authorize a variance or nonconforming use to the existing comprehensive plan and zoning ordinances, unless the commission determines after notice and hearing that such variance or nonconforming use is contrary to the public interest.

(13) The permit required under this section and other sections of this chapter and chapter 403 are the sole permits required for interdistrict transfer and use of groundwater, and such permits are in lieu of any license, permit, or similar document required by any state agency or political subdivision pursuant to chapter 163, chapter 380, or chapter 381, and the Florida Transportation Code.

(14) When a consumptive use permit under this section is granted for water use beyond the boundaries of a local government from which or through which the groundwater is withdrawn or transferred and a local government denies a permit required under chapter 125 or chapter 153 for a facility or any infrastructure which produces, treats, transmits, or distributes such groundwater, the person or unit of government applying for the permit under chapter 125 or chapter 153 may appeal the denial to the Land and Water Adjudicatory Commission. The commission shall review the local government action for consistency with this chapter and the interdistrict groundwater transfer permit and may reverse, modify, or approve the local government's action.

History.--s. 1, ch. 87-347.

373.233 Competing applications.--

(1) If two or more applications which otherwise comply with the provisions of this part are pending for a quantity of water that is inadequate for both or all, or which for any other reason are in conflict, the governing board or the department shall have the right to approve or modify the application which best serves the public interest.

(2) In the event that two or more competing applications qualify equally under the provisions of subsection (1), the governing board or the department shall give preference to a renewal application over an initial application.

History.--s. 6, part II, ch. 72-299.

373.246 Declaration of water shortage or emergency.--

(1) The governing board or the department by regulation shall formulate a plan for implementation during periods of water shortage. Copies of the water shortage plan shall be submitted to the Speaker of the House of Representatives and the President of the Senate no later than October 31, 1983. As a part of this plan the governing board or the department shall adopt a reasonable system of water-use classification according to source of water supply; method of extraction, withdrawal, or diversion; or use of water or a combination thereof. The plan may include provisions for variances and alternative measures to prevent undue hardship and ensure equitable distribution of water resources.

(2) The governing board or the department by order may declare that the water shortage exists for a source or sources within all or part of the district when insufficient after is or will be available to meet the present and anticipated requirements of the users or when conditions are such as to require temporary reduction in total use within the area to protect water resources from serious harm. Such orders will be final agency action.

(3) In accordance with the plan adopted under subsection (1) the governing board or the department may impose such restrictions one or more classes of water uses as may be necessary to protect the water resources of the area from serious harm and restore them to their previous condition.

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(4) A declaration of water shortage and any measures adopted pursuant thereto may be rescinded by the governing board or the department.

(5) When a water shortage is declared, the governing board or the department shall cause notice thereof to be published in a prominent place within a newspaper of general circulation throughout the area. Publication of such notice will serve as notice to all users in the area of the condition of water shortage.

(6) The governing board or the department shall notify each permittee in the district by regular mail of any change in the condition of water shortage.

(7) If an emergency condition exists due to water shortage within any area of the district, and if the department, or executive director of the district with the concurrence of the governing board, finds that the exercise of powers under subsection (1) is not sufficient to protect the public health, safety, or welfare; the health of animals, fish or aquatic life; a public water supply; or recreational, commercial, industrial, agricultural, or other reasonable uses, it or he may, pursuant to the provisions of s. 373.199, issue emergency orders reciting the existence of such an emergency and requiring that such action, including, but not limited to, apportioning, rotating, limiting, or prohibiting the use of water resources of the district, be taken as the department or the executive director deems necessary to meet the emergency.

(8) An affected party to whom an emergency order is directed under subsection (7) shall comply immediately, but may challenge such an order in the manner set forth in s.373.119.

History.- s. 10, part II, ch. 72-299; s. 14, ch. 78.95; s. 11, ch. 82-101; s. 10, ch. 84-341.

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SELECTED PASSAGES FROM SECTION 403.021

403.021. Legislative declaration; public policy

(1) The pollution of the air and waters of this state constitutes a menace to public health and welfare; creates public nuisances; is harmful to wildlife and fish and other aquatic life; and impairs domestic, agricultural, industrial, recreational, and other beneficial uses of air and water

(2) It is declared to be the public policy of this state to conserve the waters of the state and to protect, maintain, and improve the quality thereof for public water supplies, for the propagation of wildlife and fish and other aquatic life, and for domestic, agricultural, industrial, recreational, and other beneficial uses and to provide that no wastes be discharged into any waters of the state without first being given the degree of treatment necessary to protect the beneficial uses of such water.

(3) It is declared to be the public policy of this state and the purpose of this act to achieve and maintain such levels of air quality as will protect human health and safety and, to the greatest degree practicable, prevent injury to plant and animal life and property, foster the comfort and convenience of the people, promote the economic and social development of this state, and facilitate the enjoyment of the natural attractions of this state. In accordance with the public policy established herein, the Legislature further declares that the citizens of this state should be afforded reasonable protection from the dangers inherent in the release of toxic or otherwise hazardous vapors, gases, or highly volatile liquids into the environment.

(4) It is declared that local and regional air and water pollution control programs are to be supported to the extent practicable as essential instruments to provide for a coordinated statewide program of air and water pollution prevention, abatement, and control for the securing and maintenance of appropriate levels of air and water quality.

(5) It is hereby declared that the prevention, abatement, and control of the pollution of the air and waters of this state are affected with a public interest, and the provisions of this act are enacted in the exercise of the police powers of this state for the purpose of protecting the health, peace, safety and general welfare of the people of this state.

(6) The Legislature finds and declares that control, regulation, and abatement of the activities which are causing or may cause pollution of the air or water resources in the state and which are or may be detrimental to human, animal, aquatic, or plant life, or to property, or unreasonably interfere with the comfortable enjoyment of life or property be increased to ensure conservation of natural resources; to ensure a continued safe environment; to ensure purity of air and water; to ensure domestic water supplies; to ensure protection and preservation of the public health, safety, welfare, and economic well-being; to ensure and provide for recreational and wildlife needs as the population increases and the economy expands; and to ensure a continuing growth of the economy and industrial development.

7) The Legislature further finds and declares that:

(a) Compliance with this law will require capital outlays of hundreds of millions of dollars for the installation of machinery, equipment, and facilities for the treatment of industrial wastes which are not productive assets and increased operating expenses to owners without any financial return and should be separately classified for assessment purposes.

(b) Industry should be encouraged to install new machinery, equipment, and facilities as technology in environmental matters advances, thereby improving the quality of the air and waters of the state and benefiting the citizens of the state without pecuniary benefit to the owners of industries; and the Legislature should prescribe methods whereby just valuation may be secured to such owners and

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exemptions from certain excise taxes should be offered with respect to such installations.

(c) Facilities as herein defined should be classified separately from other real and personal property of any manufacturing or processing plant or installation, as such facilities contribute only to general welfare and health and are assets producing no profit return for owners.

(d) In existing manufacturing or processing plants it is more difficult to obtain satisfactory results in treating industrial wastes than in new plants being now planned or constructed and that with respect to existing plants in many instances it will be necessary to demolish and remove substantial portions thereof and replace the same with new and more modern equipment in order to more effectively treat, eliminate, or reduce the objectionable characteristics of any industrial wastes and that such replacements should be classified and assessed differently from replacements made in the ordinary course of business.

(8) The Legislature further finds and declares that the public health, welfare, and safety may be affected by disease-carrying vectors and pests. The department shall assist all governmental units charged with the control of such vectors and pests. Furthermore, in reviewing applications for permits, the department shall consider the total well-being of the public and shall not consider solely the ambient pollution standards when exercising its powers, if there may be danger of a public health hazard.

(9)(a) The Legislature finds and declares that it is essential to preserve and maintain authorized water depth in the existing navigation channels, port harbors, turning basins, and harbor berths of this state in order to provide for the continued safe navigation of deepwater shipping commerce. The department shall recognize the maintenance of authorized channel depths is an ongoing, continuous, beneficial, and necessary activity; and it shall develop a regulatory process which shall enable the ports of this state to conduct such activities in an environmentally sound, expeditious, and efficient manner.

(b) The provisions of paragraph (a) apply only to the port waters, spoil disposal sites, port harbors, navigation channels, turning basins, and harbor berths used for deepwater commercial navigation in the ports of Jacksonville, Tampa, Port Everglades, Miami, Port Canaveral, Ft. Pierce, Palm Beach, Port Manatee, Port St. Joe, Panama City, St. Petersburg, and Pensacola.

(10) It is the policy of the state to ensure that the existing and potential drinking water resources of the state remain free from harmful quantities of contaminants. The department, as the state water quality protection agency, shall compile, correlate, and disseminate available information on any contaminant which endangers or may endanger existing or potential drinking water resources. It shall also coordinate its regulatory program with the regulatory programs of other agencies to assure adequate protection of the drinking water resources of the state.

(11) It is the intent of the Legislature that water quality standards be reasonably established and applied to take into account the variability occurring in nature. The department shall recognize the statistical variability inherent in sampling and testing procedures that are used to express water quality standards. The department shall also recognize that some deviations from water quality standards occur as the result of natural background conditions. The department shall not consider deviations from water quality standards to be violations when the discharger can demonstrate that the deviations would occur in the absence of any man-induced discharges or alterations to the water body.

History.— s. 3, ch. 67-436; s. 1, ch. 78-98; ss. 1, 5, ch. 81-228; s. 4, ch. 84-79; s. 46, ch. 84-338; s. 11, ch. 85-269; s. 1, ch. 85-277; s. 8, ch. 86-186; s. 3, ch. 86-213.

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SELECTED PASSAGES FROM SECTION 17-3.011

17-3.011. Findings, Declaration and Intent

- (1) Article II, Section 7 of the Florida Constitution requires abatement of water pollution, and conservation and protection of Florida's natural resources and scenic beauty.
- (2) Congress, in Section 101(a)(2) of the Federal Water Pollution Control Act, as amended, declares that achievement by July 1, 1983, of water quality sufficient for the protection and propagation of fish, shellfish, and wildlife, as well as for recreation in and on the water, is an interim goal to be sought wherever attainable. Congress further states, in Section 101(a)(3), that it is the national policy that the discharge of toxic pollutants in toxic amounts be prohibited.
- (3) The present and future most beneficial uses of all waters of the State have been designated by the Department by means of the classification system set forth in this Chapter pursuant to Subsection 403.061(10), F.S. Water quality standards are established by the Department to protect these designated uses.
- (4) Because activities outside the State sometimes cause pollution of Florida's waters, the Department will make every reasonable effort to have such pollution abated.
- (5) Water quality standards apply equally to and shall be uniformly enforced in both the public and private sector.
- (6) Public interest shall not be construed to mean only those activities conducted solely to provide facilities or benefits to the general public. Private activities conducted for private purposes may also be in the public interest.
- (7) The Commission, recognizing the complexity of water quality management and the necessity to temper regulatory actions with the technological progress and the social and economic well-being of people, urges, however, that there be no compromise where discharges of pollutants constitute a valid hazard to human health.
- (8) The Commission requests that the Secretary seek and use the best environmental information available when making decisions on the effects of chronically and acutely toxic substances and carcinogenic, mutagenic, and teratogenic substances. Additionally, the Secretary is requested to seek and encourage innovative research and developments in waste treatment alternatives that might better preserve environmental quality or at the same time reduce the energy and dollar costs of operation.
- (9) The present and future most beneficial uses of groundwaters of the State shall be protected to insure the availability and utility of this invaluable resource. To achieve such protection, the groundwaters of the State are classified and appropriate specific water quality criteria for those classes are set forth in this Chapter.
- (10) The criteria set forth in this Chapter are minimum levels which are necessary to protect the designated uses of a water body. It is the intent of this Commission that permit applicants should not be penalized due to a low detection limit associated with any specific criteria.
- (11)(a) The Department's rules that were adopted on March 1, 1979 regarding water quality standards are designed to protect the public health or welfare and to enhance the quality of waters of the State. They have been established taking into consideration the use and value of waters of the State for public water supplies, propagation of fish and wildlife, recreational purposes, and agricultural, industrial, and other purposes, and also taking into consideration their use and value for navigation.
- (b) Under the approach taken in the formulation of the rules adopted in this proceeding:

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1. The Department's rules that were adopted on March 1, 1979 regarding water quality standards are based upon the best scientific knowledge related to the protection of the various designated uses of waters of the State; and

2. The mixing zone, zone of discharge, site specific alternative criteria, exemption, and equitable allocation provisions are designed to provide an opportunity for the future consideration of factors relating to localized situations which could not adequately be addressed in this proceeding, including economic and social consequences, attainability, irretrievable conditions, natural background, and detectability.

(c) This is an even-handed and balanced approach to attainment of water quality objectives. The Commission has specifically recognized that the social, economic and environmental costs may, under certain special circumstances, outweigh the social, economic and environmental benefits if the numerical criteria are enforced statewide. It is for that reason that the Commission has provided for mixing zones, zones of discharge, site specific alternative criteria, exemptions and other provisions in Chapters 17-3, 17-302, 17-4, and 17-6, F.A.C. Furthermore, the continued availability of the moderating provisions is a vital factor providing a basis for the Commission's determination that water quality standards applicable to water classes in the rule are attainable taking into consideration environmental, technological, social, economic and institutional factors. The companion provisions of Chapters 17-4 and 17-6, F.A.C., approved simultaneously with these Water Quality Standards are incorporated herein by reference as a substantive part of the State's comprehensive program for the control, abatement and prevention of water pollution.

(d) Without the moderating provisions described in (b)2. above, the Commission would not have adopted the revisions described in (b)1. above nor determined that they are attainable as generally applicable water quality standards.

Specific Authority: 403.061, 403.062, 403.087, 403.504, 403.704, 403.804, 403.805, F.S.

Law Implemented: 403.021, 403.061, 403.085, 403.086, 403.087, 403.088, 403.101, 403.141, 403.161, 403.182, 403.502, 403.702, 403.708, 402.802, F.S.

History: Formerly 28-5.01, 17-3.01, Amended and Renumbered 3-1-79, Amended 2-1-83, 10-4-89, 1-28-90.

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SELECTED PASSAGES FROM CHAPTER 17-40

PART I GENERAL WATER POLICY

- 17-40.110 Declaration and Intent.
- 17-40.120 Department Rules.

PART II DEFINITIONS

- 17-40.210 Definitions.

PART III GENERAL PROVISIONS

- 17-40.310 General Policies.

PART IV RESOURCE PROTECTION AND MANAGEMENT

- 17-40.401 Water Use and Reuse.
- 17-40.402 Water Transport.
- 17-40.403 Water Quality.
- 17-40.405 Minimum Flows and Levels.
- 17-40.420 Surface Water Protection and Management

PART V WATER PROGRAM DEVELOPMENT

- 17-40.501 District Water Management Plans.

PART VI WATER PROGRAM ADMINISTRATION AND EVALUATION

- 17-40.601 Review and Application.

PART I GENERAL WATER POLICY

17-40.110 Declaration and Intent.

(1) The waters of the state are among its basic resources. Such waters should be managed to conserve and protect natural resources and scenic beauty and to realize the full beneficial use of the resource. Recognizing the importance of water to the state, the Legislature passed the Water Resources Act, Chapter 373, Florida Statutes, and the Air and Water Pollution Control Act, Chapter 403, Florida Statutes. Additionally, numerous goals and policies within the State Comprehensive Plan, Chapter 187, Florida Statutes, address water resources and natural systems protection.

(2) This Chapter is intended to clarify water policy as expressed in Chapters 187, 373, and 403, Florida Statutes, and to otherwise provide guidance to the Department and Districts in the development of programs, rules, and plans. Local governments shall consider state water policy in the development of their comprehensive plans required by Chapter 163, Florida Statutes, as required by Section 403.0891(3)(a), F.S.

(3) This Chapter does not repeal, amend or otherwise alter any rule now existing or later adopted by the Department or District. However, procedures are included in this Chapter which provide for the review and modification of Department and District rules to assure consistency with the provisions of this Chapter.

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(4) It is the intent of the Department, in cooperation with the Water Management Districts, to seek adequate sources of funding to supplement District ad valorem taxes to implement the provisions of this Chapter.

Specific Authority: 373.026(7), 373.026(10), 373.043, 403.061(33), 403.805, F.S.

Law Implemented: 373.016, 373.114, 403.061(33), 403.0891, F.S.

History: New 5-5-81. Previously numbered as 17-40.01. Amended 12-5-88.

Previously numbered 17-40.001, Amended 8-14-90, 12-17-91.

17-40.120 Department Rules.

State water policy shall also include the following Department rules:

(1) Water Quality Standards, Chapter 17-3, F.A.C.

(2) Surface Water Quality Standards, Chapter 17-302, F.A.C.

(3) Surface Water Improvement and Management, Chapter 17-43, F.A.C.

Specific Authority: 373.026(7), 373.026(10), 373.043, 403.061(33), 403.805, F.S.

Law Implemented: 373.016, 373.114, 403.061(33), 403.0891, F.S.

History: New 8-14-90.

PART II DEFINITIONS

17-40.210 Definitions.

When used in this rule or any other rule of the Department or District, unless the context or content of such other rule requires a narrower, more specific meaning, the following words shall mean:

(1) "Aquifer" shall mean a geologic formation, group of formations, or part of a formation that contains sufficient saturated permeable material to yield useful quantities of ground water to wells, springs or surface water.

(2) "Consumptive use" means any use of water which reduces the supply from which it is withdrawn or diverted.

(3) "Department" means the Department of Environmental Regulation.

(4) "Detention" means the delay of stormwater runoff prior to its discharge.

(5) "District" means a water management district created pursuant to Chapter 373, Florida Statutes.

(6) "Drainage basin" means a subdivision of a watershed.

(7) "Effluent", unless specifically stated otherwise, means water that is not reused after flowing out of any wastewater treatment facility or other works used for the purpose of treating, stabilizing, or holding wastes.

(8) "Florida Water Plan" means the State Water Use Plan formulated pursuant to Section 373.036, Florida Statutes, together with the water quality standards and water classifications adopted by the Department in Chapters 17-3 and 17-302, F.A.C.

(9) "Governing Board" means the governing board of a water management district.

(10) "Ground water" means water beneath the surface of the ground, whether or not flowing through known and definite channels.

(11) "Nutrient limitations" means those numeric values which establish a maximum or minimum allowable nutrient loading or concentration, as appropriate, for a specific nutrient. Nutrient limitations are established through an individual permit or other action within the regulatory authority of the Department or a District. These limitations serve to implement state water quality standards.

(12) "Reasonable-beneficial use" means the use of water in such quantity as is necessary for economic and efficient utilization for a purpose and in a manner which is both reasonable and consistent with the public interest.

(13) "Reclaimed water" means water that has received at least secondary treatment and is reused after flowing out of a wastewater treatment facility.

(14) "Retention" means the prevention of stormwater runoff from direct discharge.

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(15) "Reuse" means the deliberate application of reclaimed water, in compliance with Department and District rules, for a beneficial purpose.

(a) For example, said uses may encompass:

1. Landscape irrigation (such as irrigation of golf courses, cemeteries, highway medians, parks, playgrounds, school yards, retail nurseries, and residential properties);

2. Agricultural irrigation (such as irrigation of food, fiber, fodder and seed crops, wholesale nurseries, sod farms, and pastures);

3. Aesthetic uses (such as decorative ponds and fountains);

4. Groundwater recharge (such as slow rate, rapid-rate, and absorption field land application systems) but not including disposal methods described in Rule 17-40.210(15)(b), F.A.C.;

5. Industrial uses (such as cooling water, process water, and wash waters);

6. Environmental enhancement of surface waters resulting from discharge of reclaimed water having received at least advanced wastewater treatment or from discharge of reclaimed water for wetlands restoration;

7. Fire protection; or

8. Other useful purpose.

(b) Overland flow land application systems, rapid-rate land application systems providing continuous loading to a single percolation cell, other land application systems involving less than secondary treatment prior to application, septic tanks, and groundwater disposal systems using Class I wells injecting effluent or wastes into Class G-IV waters shall be excluded from the definition of reuse.

(16) "Secretary" means the Secretary of the Department of Environmental Regulation.

(17) "State Water quality standards" means water quality standards adopted by the Environmental Regulations Commission pursuant to Chapter 403, Florida Statutes, including standards comprised of designated most beneficial uses (classification of waters), the numerical and narrative criteria applied to the specific water use or classification, the Florida anti-degradation policy, and the moderating provisions contained in Rules 17-3 and 17-4, F.A.C.

(18) "State Water Use Plan" means the plan formulated pursuant to Section 373.036, Florida Statutes, for the use and development of waters of the State.

(19) "Stormwater" means the water which results from a rainfall event.

(20) "Stormwater management program" means the institutional strategy for stormwater management, including urban, agricultural, and other stormwater.

(21) "Stormwater management system" means a system which is designed and constructed or implemented to control stormwater, incorporating methods to collect, convey, store, absorb, inhibit, treat, use, or reuse stormwater to prevent or reduce flooding, over-drainage, environmental degradation and water pollution or otherwise affect the quantity and quality of discharges from the system.

(22) "Stormwater utility" means the entity through which funding for a stormwater management program is obtained, by assessing the cost of the program to the beneficiaries based on their relative contribution to its need. It is operated as a typical utility which bills services regularly, similar to water and wastewater services.

(23) "Surface water" means water upon the surface of the earth, whether contained in bounds created naturally or artificially or diffused. Water from natural springs shall be classified as surface water when it exits from the spring onto the earth's surface.

(24) "Water" or "waters in the state" means any and all water on or beneath the surface of the ground or in the atmosphere, including natural or artificial watercourses, lakes, ponds, or diffused surface water and water percolating,

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standing, or flowing beneath the surface of the ground, as well as all coastal waters within the jurisdiction of the state.

(25) "Watershed" means the land area which contributes to the flow of water into a receiving body of water.

(26) "Wetlands" means those areas that are inundated or saturated by surface or ground water with a frequency sufficient to support, and under normal circumstances do or would support, a prevalence of vegetative or aquatic life that requires saturated or seasonably saturated soil conditions for growth and reproduction, such as swamps, marshes, bayheads, cypress ponds, sloughs, wet prairies, wet meadows, river overflows, mud flats and natural ponds. This definition does not alter the Department's jurisdiction over dredging and filling activities in wetlands as defined in Section 403.911(7), F.S.

Specific Authority: 373.026(7), 373.026(10), 373.043, 403.061(33), 403.805, F.S.

Law Implemented: 373.016, 373.114, 403.061(33), 403.0891, F.S.

History: New 5-5-81. Previously numbered as 17-40.02. Amended 12-5-88. Previously numbered 17-40.020, Amended 8-14-90, 12-17-91.

PART III GENERAL PROVISIONS

17-40.310 General Policies

The following statement of general water policy shall provide a basis for Department review of water management programs, rules, and plans. Water management programs, rules and plans, where economically and environmentally feasible, not contrary to the public interest, and consistent with Florida law, shall seek to:

- (1) Assure availability of an adequate and affordable supply of water for all reasonable-beneficial uses. Uses of water authorized by a permit shall be limited to reasonable-beneficial uses.
- (2) Reserve from use that water necessary to support essential non-withdrawal demands, including navigation, recreation, and the protection of fish and wildlife.
- (3) Champion and develop sound water conservation practices and public information programs.
- (4) Advocate and direct the reuse of reclaimed water as an integral part of water management programs, rules, and plans consistent with protection of the public health and surface and ground water quality.
- (5) Encourage the use of water of the lowest acceptable quality for the purpose intended.
- (6) Utilize, preserve, restore, and enhance natural water management systems and discourage the channelization or other alteration of natural rivers, streams and lakes.
- (7) Protect the water storage and water quality enhancement functions of wetlands, floodplains, and aquifer recharge areas through acquisition, enforcement of laws, and the application of land and water management practices which provide for compatible uses.
- (8) Protect aquifers from depletion through water conservation and preservation of the functions of high recharge areas.
- (9) Identify and protect existing and future public water supply areas and protect them from contamination.
- (10) Mitigate adverse impacts resulting from prior alteration of natural hydrologic patterns and fluctuations in surface and ground water levels.
- (11) Establish minimum flows and levels to protect water resources and the environmental values associated with marine, estuarine, freshwater, and wetlands ecology.

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(12) Encourage nonstructural solutions to water resource problems and give adequate consideration to nonstructural alternatives whenever structural works are proposed.

(13) Encourage the management of floodplains and other flood hazard areas to prevent or reduce flood damage, consistent with establishment and maintenance of desirable hydrologic characteristics of such areas.

(14) Manage the construction and operation of facilities which dam, divert, or otherwise alter the flow of surface waters to prevent increased flooding, soil erosion or excessive drainage.

(15) Encourage the development of local and regional water supplies within districts rather than transport water across District boundaries.

(16) Restore and protect the quality of ground and surface water by ensuring high quality treatment for stormwater and wastewater.

(17) Develop interstate agreements and undertake cooperative programs with Alabama and Georgia to provide for coordinated management of surface and ground waters.

Specific authority: 373.026, 373.026(10), 403.0891, 373.043, 403.805, F.S.

Law Implemented: 373.016, F.S.

History: New 5-5-81. Previously numbered as 17-40.03. Amended 12-5-88. Previously numbered as 17-4.030, Amended 8-14-90, 12-17-91.

PART IV RESOURCE PROTECTION AND MANAGEMENT

17-40.401 Water Use and Reuse.

The following shall apply to those areas where the use of water is regulated pursuant to Part II of Chapter 373, Florida Statutes:

(1) No permit shall be granted to authorize the use of water unless the applicant establishes that the proposed use is a reasonable-beneficial use, will not interfere with presently existing legal uses of water and is consistent with the public interest.

(2) In determining whether a water use is a reasonable-beneficial use, the following factors will be considered:

- (a) The quantity of water requested for the use;
- (b) The demonstrated need for the use;
- (c) The suitability of the use to the source of water;
- (d) The purpose and value of the use;
- (e) The extent and amount of harm caused;
- (f) The practicality of mitigating any harm by adjusting the quantity or method of use;
- (g) Whether the impact of the withdrawal extends to land not owned or legally controlled by the user;
- (h) The method and efficiency of use;
- (i) Water conservation measures taken or available to be taken
- (j) The availability of reclaimed water for and the practicality of reuse, or the use of waters of more suitable quality;
- (k) The present and projected demand for the source of water;
- (l) The long term yield available from the source of water;
- (m) The extent of water quality degradation caused;
- (n) Whether the proposed use would cause or contribute to flood damage;
- (o) Whether the proposed use would significantly induce saltwater intrusion;
- (p) The amount of water which can be withdrawn without causing harm to the resource;
- (q) Whether the proposed use would adversely affect public health; and
- (r) Other relevant factors.

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(3) Water shall be reserved from permit use in such locations and quantities, and for such seasons of the year, as is required for the protection of fish and wildlife or the public health or safety.

(4) Conservation of water shall be required unless not economically or environmentally feasible.

(5) As required by Section 373.0391(2)(e), F.S., the Districts shall designate areas that have water supply problems which have become critical or are anticipated to become critical within the next 20 years. The Districts shall identify such critical water supply problem areas during preparation of a District Plan pursuant to Rule 17-40.501, F.A.C., and shall adopt these designations by rule by November 1, 1991. A reasonable amount of reuse of reclaimed water from domestic wastewater treatment facilities shall be required within designated critical water supply problem areas unless such reuse is not economically, environmentally, or technically feasible. The Districts shall periodically update their designations of critical water supply problem areas by rule. Such updates shall occur within one year after updates of the District Plan prepared pursuant to Rule 17-40.501, F.A.C. After completion of the District Plan or updates pursuant to Rule 17-40.501, F.A.C., the Districts may limit areas where reuse shall be required to areas where reuse is specified as a remedial or preventive action pursuant to Rule 17-40.501(2), F. A. C. Any such limitation of areas where reuse shall be required shall be designated by rule.

(6) A reasonable amount of reuse of reclaimed water from domestic wastewater treatment facilities may be required outside of areas designated pursuant to Rule 17-40.401(5), F.A.C., as subject to critical water supply problems provided:

(a) Reclaimed water is readily available; and

(b) The district has adopted rules for reuse in these areas.

(7) The Department encourages local governments to implement programs for reuse of reclaimed water. These rules shall not be deemed to preempt any such local reuse programs.

(8) In implementing consumptive use permitting programs, the Department and the Districts are required under Section 187.101(3), F.S., to recognize the rights of property owners, as limited by law, to make consumptive uses of water from their land, and the rights of other users, as limited by law, to make consumptive uses of water, for reasonable-beneficial uses in a manner consistent with the public interest that will not interfere with any presently existing legal use of water.

(9) Permits authorizing consumptive uses of water which cause unanticipated significant adverse impacts on off-site land uses existing at the time of permit application, or on legal uses of water existing at the time of permit application, should be considered for modification, to curtail or abate the adverse impacts, unless the impacts can be mitigated by the permittee.

Specific Authority: 373.026, 373.043, 403.064, 403.805, F.S.

Law Implemented: 373.016, Part II, 373, F.S.

History: New 5-5-81. Amended 2-4-82, 12-5-88. Previously numbered as 17-40.04. Previously numbered as 17-40.040, Amended 8-14-90, 12-17-91.

17-40.402 Water Transport.

The following shall apply to the transfers of water where such transfers are regulated pursuant to Part II of Chapter 373, Florida Statutes:

(1) The transport or use of water across District boundaries shall require approval of each involved District.

(2) In deciding whether the transport and use of water across District boundaries is consistent with the public interest pursuant to Section 373.223, Florida Statutes, the Districts should consider the extent to which:

(a) Comprehensive water conservation and reuse programs are implemented and enforced in the area of need.

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(b) The major costs, benefits, and environmental impacts have been adequately determined including the impact on both the supplying and receiving areas;

(c) The transport is an environmentally and economically acceptable method to supply water for the given purpose;

(d) The present and projected water needs of the supplying area are reasonably determined and can be satisfied even if the transport takes place;

(e) The transport plan incorporates a regional approach to water supply and distribution including, where appropriate, plans for eventual interconnection of water supply sources; and

(f) The transport is otherwise consistent with the public interest based upon evidence presented.

Specific Authority: 373.026, 373.043, 403.805, F.S.

Law Implemented: 373.016, Part II, 373, F.S.

History: New 5-5-81. Previously numbered as 17-40.05. Amended 12-5-88. Previously numbered 17-40.050.

17-40.403 Water Quality.

(1) Water quality standards shall be enforced pursuant to Chapter 403, Florida Statutes, to protect waters of the State from point and non-point sources of pollution.

(2) State water quality standards adopted by Department rule shall be a part of the Florida Water Plan.

Specific Authority: 403.061, 373.026, 373.043, 403.805, F.S.

Law Implemented: 373.039, 403.021, F.S.

History: New 5-5-81. Previously numbered as 17-40.06. Amended 12-5-88. Previously numbered 17-40.060.

17-40.405 Minimum Flows and Levels.

(1) In establishing minimum flows and levels pursuant to Section 373.042, consideration shall be given to the protection of water resources, natural seasonal fluctuations in water flows or levels, and environmental values associated with coastal, estuarine, aquatic, and wetlands ecology, including:

- (a) Recreation in and on the water;
- (b) Fish and wildlife habitats and the passage of fish;
- (c) Estuarine resources;
- (d) Transfer of detrital material;
- (e) Maintenance of freshwater storage and supply;
- (f) Aesthetic and scenic attributes;
- (g) Filtration and absorption of nutrients and other pollutants;
- (h) Sediment loads;
- (i) Water quality; and
- (j) Navigation.

(2) Established minimum flows and levels shall be a consideration where relevant to:

- (a) The construction and operation of water resource projects;
- (b) The issuance of permits pursuant to Part II, Part IV, and Section 373.086, Florida Statutes; and
- (c) The declaration of a water shortage pursuant to Section 373.175 or Section 373.246, Florida Statutes.

Specific Authority: 373.026, 373.043, 403.805, F.S.

Law Implemented: 373.016, 373.042, 373.086, 373.175, 373.246, F.S.

History: New 5-5-81. Previously numbered as 17-40.08. Amended 12-5-88. Previously numbered 17-40.080.

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17-40.420 Surface Water Protection and Management.

(1) Surface Water Protection and Management Goals. The following goals are established to provide guidance for Department, District and local government stormwater management programs:

(a) It shall be a goal of surface water management programs to protect, preserve and restore the quality, quantity and environmental values of water resources. A goal of surface water management programs includes effective stormwater management for existing and new systems which shall seek to protect, maintain and restore the functions of natural systems and the beneficial uses of waters.

(b) The primary goals of the state's stormwater management program are to maintain, to the maximum extent practicable, during and after construction and development, the predevelopment stormwater characteristics of a site; to reduce the stream channel erosion, pollution, siltation, sedimentation and flooding; to reduce stormwater pollutant loadings discharged to waters to preserve or restore beneficial uses; to reduce the loss of fresh water resources by encouraging the reuse of stormwater; to enhance ground water recharge by promoting infiltration of stormwater in areas with appropriate soils and geology; to maintain the appropriate salinity regimes in estuaries needed to support the natural flora and fauna; and to address stormwater management on a watershed basis to provide cost effective water quality and water quantity solutions to specific watershed problems.

(c) Inadequate management of stormwater throughout a watershed increases stormwater flows and velocities, contributes to erosion and sedimentation, overtaxes the carrying capacity of streams and other conveyances, disrupts the functions of natural systems, undermines floodplain management and flood control efforts in downstream communities, reduces ground water recharge, threatens public health and safety, and is the primary source of pollutant loading entering Florida's rivers, lakes and estuaries, thus causing degradation of water quality and a loss of beneficial uses. Accordingly, it is a goal to eliminate the discharge of inadequately managed stormwater into waters and to minimize other adverse impacts on natural systems, property and public health, safety and welfare caused by improperly managed stormwater.

(d) It shall be a goal of stormwater management programs to reduce unacceptable pollutant loadings from older stormwater management systems, constructed before the adoption of Chapter 17-25, F.A.C., (February 1, 1982), by developing watershed management and stormwater master plans or District-wide or basin specific rules.

(e) The concept of developing comprehensive watershed management plans in designated watersheds is intended not only to prevent existing environmental, water quantity, and water quality problems from becoming worse but also to reduce existing flooding problems, to improve existing water quality, and to preserve or restore the values of natural systems.

(2) Stormwater Management Program Implementation. As required by Section 403.0891, F.S., the Department, Districts and local governments shall cooperatively implement on a watershed basis a comprehensive stormwater management program designed to minimize the adverse effects of stormwater on land and water resources. All such programs shall be mutually compatible with the State Comprehensive Plan (Chapter 187, Florida Statutes), the Local Government Comprehensive Planning and Land Development Regulation Act (Chapter 163, Florida Statutes), the Surface Water Improvement and Management Act (Sections 373.451-.4595, F.S.), Chapters 373 and 403, F.S., and this chapter. Programs shall be implemented in a manner that will improve and restore the quality of waters that do not meet state water quality standards and maintain the water quality of those waters which meet or exceed state water quality standards.

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(a) The Department shall be the lead agency responsible for coordinating the statewide stormwater management program by establishing goals, objectives and guidance for the development and implementation of stormwater management programs by the Districts and local governments.

(b) The Districts shall be the chief administrators of the state stormwater management program. Districts shall set regional stormwater management goals and policies on a watershed basis, including watershed stormwater pollutant load reductions necessary to preserve or restore beneficial uses of receiving waters. Such goals and policies shall be implemented through District SWIM plans, through preparation of watershed management plans in other designated priority watersheds and through appropriate regulations.

(c) Local governments shall establish stormwater management programs which are in accordance with the state and District stormwater quality and quantity goals. Local governments may establish a stormwater utility or other dedicated source of funding to implement a local stormwater management program which shall include the development and implementation of a stormwater master plan and provisions, such as an operating permit system, to ensure that stormwater systems are properly operated and maintained.

(3) Surface Water Management. The following shall apply to the regulation of surface water pursuant to Part IV, Chapter 373, Florida Statutes.

(a) The construction and operation of facilities which manage or store surface waters, or other facilities which drain, divert, impound, discharge into, or otherwise impact waters in the state, and the improvements served by such facilities, shall not be harmful to water resources or inconsistent with the objectives of the Department or District.

(b) In determining the harm to water resources and consistency with the objectives of the Department or District, consideration should be given to:

1. The impact of the facilities on:
 - a. water quality;
 - b. fish and wildlife;
 - c. wetlands, floodplains, and other environmentally sensitive lands;
 - d. reasonable-beneficial uses of water;
 - e. recreation;
 - f. navigation;
 - g. saltwater or pollution intrusion, including any barrier line established pursuant to Section 373.033, F.S.;
 - h. minimum flows and levels established pursuant to Section 373.042, F.S.; and
 - i. other factors relating to the public health, safety, and welfare;
 2. Whether the facilities meet applicable design or performance standards;
 3. Whether adequate provisions exist for the continued satisfactory operation and maintenance of the facilities; and
 4. The ability of the facilities and related improvements to avoid increased damage to off-site property, water resources, natural systems or the public caused by:
 - a. floodplain development, encroachment or other alteration;
 - b. retardance, acceleration or diversion of flowing water;
 - c. reduction of natural water storage areas;
 - d. facility failure; or
 - e. other actions adversely affecting off-site water flows or levels.
- (4) Minimum Stormwater Treatment Performance Standards.
- (a) When a stormwater management system complies with rules establishing the design and performance criteria for stormwater management systems, there shall be a rebuttable presumption that such systems will comply with state water quality

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standards. The Department and the Districts, pursuant to Section 373.436, F.S., shall adopt rules that specify design and performance criteria for new stormwater management systems which:

1. Shall be designed to achieve at least 80 percent reduction of the average annual load of pollutants that would cause or contribute to violations of state water quality standards.

2. Shall be designed to achieve at least 95 percent reduction of the average annual load of pollutants that would cause or contribute to violations of state water quality standards in Outstanding Florida Waters.

3. The minimum treatment levels specified in subparagraphs 1. and 2. above may be replaced by basin specific design and performance criteria adopted by a District in order to achieve the pollutant load reduction goals established in paragraph (c).

- (b) Erosion and sediment control plans detailing appropriate methods to retain sediment on-site shall be required for land disturbing activities.

- (c) The pollutant loading from older stormwater management systems shall be reduced as necessary to restore or maintain the beneficial uses of waters. The Districts shall establish pollutant load reduction goals and adopt them as part of a SWIM plan, other watershed management plan, or District-wide or basin specific rules.

- (d) Watershed management goals shall be developed by the District for all watersheds within the boundaries of each District and shall be consistent with the SWIM Program and the EPA National Pollutant Discharge Elimination System (NPDES) program. The primary purpose shall be to reduce pollutant discharges from watersheds such that the water quality in receiving waters is restored or maintained consistent with applicable state water quality standards.

- (e) Watershed specific stormwater pollutant load reduction goals shall be developed for older stormwater management systems on a priority basis as follows:

1. Goals shall be developed according to the schedule established by EPA for those waters receiving stormwater discharges from systems required to obtain NPDES stormwater permits.

2. Goals shall be developed by 1994 for SWIM water bodies that have an adopted SWIM plan and that do not receive stormwater discharges from systems required to obtain NPDES stormwater discharge permits.

3. Goals shall be developed for other watersheds by 1996. These goals shall be considered in local comprehensive plans submitted or updated in accordance with Section 403.0891 (3) (a), F.S.

Specific Authority: 373.026, 373.043, 403.061, 403.087, F.S.

Law Implemented: 163.3161-163.3243, 186, 187, 373.016, 373.046, 373.114, Part IV, 373, 403.061, 403.0891, F.S.

History: New 2-20-91.

PART V WATER PROGRAM DEVELOPMENT

17-40.501 District Water Management Plans.

- (1) As required by Section 373.036(4), F.S., a water management plan shall be prepared by each District which is consistent with the provisions of this Chapter and Section 373.036, Florida Statutes. The District Plan shall include an assessment of water needs and sources for the next 20 years. The District Plan shall identify specific geographical areas that have water resource problems which have become critical or are anticipated to become critical within the next 20 years. Identification of critical water supply problem areas needed for imposition of reuse requirements

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pursuant to Rule 17-40.401(5), F.A.C., may be accomplished before publication of the complete District Plan.

(2) Based on economic, environmental, and technical feasibility analyses, a course of remedial or preventive action shall be specified for each current and anticipated future critical problem.

(3) Remedial or preventive measures may include, but are not limited to, water resource projects; water resources restoration projects pursuant to Section 403.0615, Florida Statutes; purchase of lands; conservation of water; reuse of reclaimed water; enforcement of Department or District rules; and actions taken by local government pursuant to a Local Government Comprehensive Plan, local ordinance, or zoning regulation.

(4) District Plans shall also provide for identifying areas where collection of data, water resource investigations, water resource projects, or the implementation of regulatory programs are necessary to prevent water resource problems from becoming critical.

(5) By November 1, 1989, each District shall prepare a detailed plan of study for the preparation of the District Plan.

(6) District Plans shall be developed expeditiously and may be phased. All District Plans shall be completed no later than November 1, 1994.

(7) At a minimum, District Plans shall be updated every five years after the initial plan development.

Specific Authority: 373.026, 373.043, 403.805, F.S.

Law Implemented: 373.016, 373.033, 373.042, 373.106, 373.114, F.S.

History: New 5-5-81. Previously numbered as 17-40.09. Amended 12-5-88. Previously numbered 17-40.090, Amended 8-14-90, 12-17-91.

PART VI WATER PROGRAM ADMINISTRATION AND EVALUATION

17-40.601 Review and Application.

(1) This Chapter shall be reviewed periodically, but in no case less frequently than once every four years. Revisions, if any, shall be adopted by rule.

(2) Within 12 months after adoption or revision of this Chapter, the Districts shall have revised their existing rules for consistency with the provisions contained herein.

(3) District rules adopted after this Chapter takes effect shall be reviewed by the Department for consistency with this Chapter.

(4) At the request of the Department, each District shall initiate rulemaking pursuant to Chapter 120, Florida Statutes, to consider changes the Department determines to be necessary to assure consistency with this Chapter. The Department shall be made a party to the proceeding.

(5) District water policies may be adopted which are consistent with this Chapter, but which take into account differing regional water resource characteristics and needs.

(6) A District shall initiate rulemaking to consider implementation of programs pursuant to Sections 373.033, 373.042, 373.106, Part III, or Part IV of Chapter 373, Florida Statutes, where the Department or District determines that present or projected conditions of water shortages, saltwater intrusion, flooding, drainage, or other water resource problems, prevent or threaten to prevent the achievement of reasonable-beneficial uses, the protection of fish and wildlife, or the attainment of other water policy directives.

(7) The Department and Districts shall assist other governmental entities in the development of plans, ordinances or other programs to promote consistency with this Chapter and District water management plans.

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(8) Duplication of water quality and quantity permitting functions should be eliminated where appropriate through delegation of Department responsibilities to Districts.

(9) The Department and Districts should assist educational institutions in the development of educational curricula and research programs which meet Florida's present and future water management needs.

Specific Authority: 373.026, 373.043, 403.805, F.S.

Law Implemented: 373.016, 373.033, 373.042, 373.106, 373.114, F.S.

History: New 5-5-81. Previously numbered as 17-40.10. Amended 12-5-88.

Previously numbered 17-40.100.